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Ms. Julie Dabrusin

Standing Committee on Canadian Heritage

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● (1100)

[*Translation*]

The Chair (Ms. Julie Dabrusin (Toronto—Danforth, Lib.)): Welcome, everyone.

We are beginning the 123rd meeting of the Standing Committee on Canadian Heritage.

Today, we are continuing our study on remuneration models for artists and creative industry.

[*English*]

For our first hour today, we have Jason Kee, from Google Canada.

Before you begin your presentation, I'd just like you to know we do have a bilingual committee, so if you need any help with working the translation system, please let us know.

Please begin your presentation.

Mr. Jason Kee (Counsel, Public Policy and Government Relations, YouTube, Google Canada): Thank you, Chair.

My name is Jason Kee. I'm public policy and government relations counsel at Google Canada.

We appreciate the opportunity to participate in your study of remuneration models for artists in creative industries.

As Google, our approach to remuneration and revenue is a partnership model. In this model, creators—such as publishers, artists, producers or app developers—create and supply the content while we provide distribution and monetization, including technical infrastructure, sales teams, transaction and payment systems, and business support, etc. We then share in the resulting revenue, with the majority of the revenue going to the creator every single time. Under this partnership model, we only earn revenue when our partners earn revenue, so it is in our interest to ensure that our partners are successful.

Google offers a wide variety of platforms for different types of creators. We offer publishers advertising platforms that allow them to monetize their content by hosting ads on their sites and apps, and share in that revenue.

Google Play, our online store, provides a massive global audience for developers and other content partners, with developers sharing in 70% or more of the revenue. Google Play Movies & TV offers shows or movies for rental or purchase, while Google Play Music offers unlimited ad-free access to over 40 million songs for a monthly fee, or through a more limited ad-supported tier. These are each fully licensed services that remit royalties to rights holders in accordance with licensing agreements and provide a significant source of revenue to our content partners.

Last is YouTube, Google's global online video platform. YouTube has over 1.9 billion monthly logged-in users, and over a billion hours of video are watched each and every day. At YouTube, our mission is to give everyone a voice and show them the world. This is the true power of YouTube—that with just a camera and an Internet connection, anyone of any age from any walk of life can participate, have a voice and build a global audience.

And they do. Over 400 hours of video content are uploaded to YouTube every single minute, making it one of the largest living collections of human culture ever assembled. These uploads represent virtually every imaginable type of video content, from home videos and user-generated content to high-end film and television content. Through platforms like ours, more people around the world are able to think of themselves as authors, artists and creators.

YouTube is also a "lean-in" interactive experience, where creators interact directly with a community of engaged and passionate fans who share and comment and contribute. This personal, direct connection that YouTube creators share with their fans makes them more authentic and relatable and distinguishes YouTube from other platforms.

Canada has a very large and vibrant YouTube creator community that producers high-quality and engaging content that is being enjoyed in high numbers, both domestically and globally. Canada is one of the top exporters of content on YouTube. Globally, on average, 50% of a creator's watchtime comes from outside their own country, but for Canadian creators, over 90% of watch time comes from outside of Canada. This is higher than any other country on the platform, and demonstrates that we actually produce very exportable content.

In the past year, Canadian channels have seen their watchtime grow 45%, and channels making six figures or more in revenue are up 24% over last year. Canadian success stories are numerous and many of these creators have grown sufficiently large and sophisticated to employ teams of business managers, researchers, camera operators, editors and others, effectively becoming small production studios.

Canada also has a large community of up-and-coming creators—YouTube's creative middle class—including a range of Quebec creators, who predominantly produce French-language content that performs very well in Quebec and French-language markets.

Canadian broadcasters and producers are increasingly partnering with YouTube and leveraging the platform to reach new international audiences. We partnered with the Canada Media Fund on Encore+, a YouTube channel featuring classic Canadian content that is no longer aired, such as *The Littlest Hobo* and *Wayne and Shuster*. We've provided live streaming services for major events, including the last Tragically Hip concert, *The JUNO Awards*,*The Canadian Screen Awards*, and APTN's *Indigenous Day Live*, among others, extending the reach of these Canadian moments. We work closely with these partners to help them maximize their opportunities on the platform.

● (1110)

The Chair: Thank you very much.

We will now begin with our question-and-answer period.

We're beginning with Mr. Long for seven minutes, please.

Mr. Wayne Long (Saint John—Rothesay, Lib.): Thank you, Madam Chair.

Thank you, Mr. Kee, for your presentation this morning. It was very interesting.

I participated in a charity boxing match this past weekend. It's on YouTube, and I have a couple of hundred views now. I'm wondering if I'll be compensated—just joking. I won't retire on that, getting beaten in the ring.

Mr. Jason Kee: I don't think you were the star of that.

Mr. Wayne Long: No, I wasn't, but thank you for your presentation.

We want to make sure, obviously, that young artists, up-and-coming artists, are compensated fairly. We want to create an environment in which they can continue to grow and thrive.

Organizations such as Music Canada and the Internet Creators Guild have criticized revenues returned to rights holders by YouTube for being too low. We've heard that.

What is the remuneration system for creators who share their work on your organization's platform? How are they remunerated? Can you give us a feel for that?

Mr. Jason Kee: Certainly.

It is always a revenue-sharing model. Basically there is a share in revenue from a variety of sources that flows to the creator, whether it's ad-based or subscription-based. In the case of ad-supported—the usual platform is primarily ad-supported—what will happen is that an advertiser will basically advertise on the platform and the resulting revenue will be split.

Mr. Wayne Long: Okay.

I have a question. YouTube's returns seem much lower than other streaming services such as Spotify. Can you elaborate on that, or tell me why?

Mr. Jason Kee: I don't think that is necessarily the case. One of the challenges we have is that much of this is a bit of an apples-and-oranges comparison. YouTube is primarily an online video platform, so we have a very wide range of creators on that platform who are all participating in the advertising.

When advertisers are investing in the platform, they are looking to reach different audiences in different kinds of ways, so the specifics of an individual artist's audience will actually vary the level of return they may receive. For instance, if you are creating musical content or otherwise that appeals to a very attractive audience demographic, advertisers are typically willing to invest more money in that class of advertising. If it's in a little more obscure area or you're advertising in a geographical region where the advertising rates tend to be lower —for example, in India compared to, say, the United States—that can also impact advertising revenue.

Mr. Wayne Long: Okay.

Mr. Jason Kee: There's that aspect. Second, having such a diverse range of creators will impact the range of advertising that you see. Third, because the nature of the platform is different from Spotify in terms of being a "lean-in experience", it is not intended—

Mr. Wayne Long: Just explain the meaning of that.

Mr. Jason Kee: Yes. Essentially it is a platform, the true power of which is its ability to engage directly with the audience, to actually participate with them, to build a fan base that wants to see you succeed. A "lean-back" platform would be more of a conventional broadcasting platform: you're just sitting back and listening to it.

That's why it rewards creators who invest the time and energy in the platform to cultivate that fan base and essentially build the fan base over time, not just through advertising revenue but through monetization opportunities outside the platform. This is when I talked about sponsorship deals, brand deals, etc. This is also where the features that were introduced around things like channel memberships make a big difference, because when you introduce channel memberships, you can actually monetize those super-fans and have them contribute directly to your income.

Mr. Wayne Long: We've heard that many YouTube creators have turned to third party fundraising sites in order to keep themselves afloat. Is that indicative? Is that a result of market failure?

Mr. Jason Kee: It is more a result of a diversification of revenue streams. The online advertising market can be variable. Some creators have been extremely successful in building their entire business based on the advertising. This often happens with what we call brand-appropriate or brand-safe content. If you're creating very family-friendly content, that can be very attractive to advertising. It can be lucrative. If your primary market is one that advertisers want to reach, that can be very lucrative.

In other instances, they will want to diversify their revenue streams to supplement that advertising revenue with brand deals, sponsorship deals, crowdfunding and so on.

Again, you'll often see a fairly different revenue mix depending on the nature of the creator and how they do things. To be honest, musicians would be no strangers to this, because they are used to diversifying revenue with live events, performances, merchandise and so forth. The same basic rules apply across all classes of creators.

Mr. Wayne Long: How can we as a government help correct this gap—I call it a market failure— through changes to the remuneration models that exist under the Copyright Act? What can we do as a federal government?

Mr. Jason Kee: Our primary approach is a partnership approach. We've been working very closely with our partners in the music industry and with the creative industries to help them unlock the value of the online platforms to increase ranges of remuneration. From a government perspective, the challenge you're going to have in that respect is to understand what policies would be most appropriate to help facilitate the partnership.

Number one, if you're asking for specific recommendations, there is actually unanimity among all players, including ourselves, with respect to reform of the Copyright Board.

As YouTube is a licensed service, as is Google Play Music—

● (1115)

Mr. Wayne Long: Yes.

Mr. Jason Kee: —we actually rely on the Copyright Board to help set the rates when we have negotiated deals. We have a very inefficient process that can be very challenging for us. Finding ways to make that process more efficient would be very helpful.

The other challenge is actually a lack of transparency. Part of the challenge that we have is that, as I've said, YouTube pays literally billions of dollars into the music industry, but once that occurs, it vanishes into a fairly opaque web of licensing agreements that is not visible to us, and all the artists know is that they're only receiving a fraction of what was paid in.

Mr. Wayne Long: Okay.

Mr. Jason Kee: Finding ways to increase transparency across the entire supply chain, I think, would also be very helpful to artists.

Mr. Wayne Long: Really quickly, we heard earlier last week the from the Screen Composers Guild of Canada. They proposed a levy on data usage of 15 gigabytes per month as a way to compensate artists, as a model. Can you give me your thoughts on that?

Mr. Jason Kee: It's not dissimilar to the private copying levy that was originally proposed. It's a manifestation of that. I think it would probably present a challenge, primarily because it would increase the cost to consumers with respect to their monthly subscriptions. That probably would not be well received.

Mr. Wayne Long: Okay. Thank you.

Thank you, Chair.

The Chair: We will now go to Mr. Shields, please, for seven minutes.

Mr. Martin Shields (Bow River, CPC): Thank you.

Thank you for your presentation. It was very good, very smooth, and I think that's what your career is about, because you do it very well.

To me, the uneducated part of your audience listening to this, it's not something of my world in particular, as it is to many, but I understand the platform. I look at the sense of what you're talking about, and what we're interested in are Canadian performers. I see your model. If the partners do better, you do better, but our concern is how we make the Canadian partners do better.

I know you've been asked that already to some extent, and I heard your answer. I want you to go back to your recommendation. I know the transparency part, and you've set that over on somebody else's shoulders on the supply chain because it disappears for you.

Go back to the first part of your recommendation. Can you go through that again?

Mr. Jason Kee: Do you mean with respect to the Copyright Board?

Mr. Martin Shields: Yes.

Mr. Jason Kee: The Copyright Board is the third party organization that essentially receives proposals from collectives and then determines the appropriate tariff rates that are applied on classes of works, predominantly musical works. This applies to all classes of usage. Basically, a collective like SOCAN or CMRRA will apply for a tariff; the Copyright Board will adjudicate on that tariff and then decide what the amount is going to be. A case then goes up for judicial review, but it sort of sets what the rate will be.

The challenge is that on average it takes 3.5 years for them to reach a decision on a tariff rate. Between creators and platforms—so-called users—that level of uncertainty is very challenging, because no one can build a business without knowing what the rates that are properly supposed to be paid are going to be.

This is why there's a unanimity among all stakeholders with respect to finding ways to reform the Copyright Board process that will actually make that process more efficient. The board's process itself will set the rates and there may be some disagreements amongst the stakeholders about what that final rate might look like, but we can all agree that the process needs to be more efficient because that generates certainty in the marketplace.

Mr. Martin Shields: In the world of "instant", three and a half years is a lifetime—everything that we ever knew three and a half years ago disappearing in the tech world, right?

Mr. Jason Kee: Yes.

The other challenge is that when the Copyright Board finally does set that rate, the rate applies retroactively. What happens then is that suddenly the amount you thought you might be paying is radically different, either in your favour or against you. In either case, it's challenging to actually operate.

Mr. Martin Shields: That's because you're talking about trying to redo history.

Mr. Jason Kee: Correct.

Mr. Martin Shields: That doesn't work well.

How would you do it, then? You've identified what is a very time-sensitive industry, which I agree with, versus a bureaucratic process. How would you do it?

Mr. Jason Kee: It's a combination of basically establishing the proper resources so that the Copyright Board can adjudicate the claims quickly and efficiently along with streamlining their process. Right now it goes through a very formalized process whereby you file a formal tariff, and then there's an objection process, and so forth. It's quasi-legalistic.

I think there are ways to streamline that to make it more efficient, which will result in tariff rates being set very quickly. These are ways that don't require the length of time and, frankly, the engagement of very expert lawyers to participate in that.

There are models. You can look at the United States, for example, where they move much faster on this.

● (1120)

Mr. Martin Shields: That was my next question—"Are there examples?"—and you said the U.S. has an example.

Mr. Jason Kee: Yes.

Mr. Martin Shields: That's sort of self-defeating for a lawyer. You're working out of billable hours, and you're going to shorten that up? That doesn't seem like something a lawyer would suggest.

Mr. Jason Kee: If I'm being uncharitable, I might say that the primary beneficiaries of the current process are actually the lawyers.

Mr. Martin Shields: Right.

Mr. Jason Kee: It doesn't benefit the creators. It doesn't benefit the platforms. It doesn't benefit the users. Trying to find ways to simplify this process and to do it more expeditiously will actually help the parties that are supposed to be the principal beneficiaries of this process.

Mr. Martin Shields: As a partnership, you're looking to increase the revenue streams for both partners. You would suggest there is a process whereby it could be done that way, and the U.S. is an example.

Mr. Jason Kee: That's correct with respect to the Copyright Board process. It's also worth noting that in many instances we rely on the Copyright Board process, but when that process has been extremely inefficient, we have negotiated our own agreements with the collectives. This is in part because the delays were making it challenging to operate, so we actually made agreements with them directly.

Mr. Martin Shields: You found a way to go around.

Mr. Jason Kee: That's correct.

Mr. Martin Shields: Then I'm going to ask you about the future. Where is the future in this? Things change so drastically. Where do you see the future going with this?

Mr. Jason Kee: In many instances, it's about creators, musicians and artists finding ways to take advantage of the opportunities provided by this range of platforms. Again, the power of having access to an audience of 1.9 billion logged-in users is tremendous. It means you have access to global audiences and you can build sustainable businesses by scaling that and finding ways to monetize that audience.

However, it requires a very different approach from the one artists may historically have taken. It requires what I will call more of a creative entrepreneurial approach: basically, it's not just a matter of creating, writing and performing the music, but about actually engaging in the wide range of business activities that are required to create almost a personal brand that you leverage into revenue opportunities.

As a result, artists and creators who have been able to do that and wear all the hats—who are also our marketers, business managers and so forth—have been able to achieve tremendous success on the platform. They have been able, as I said, to secure sponsorship and brand deals that can result in very lucrative contracts, doing product integration and so forth.

That is the principal way in which artists will find success, because it's how they also diversify. Like any investor, you want to diversify your revenue streams to make sure that if one changes, you're still all right. That is the way most creators are going to be successful on the Internet.

Mr. Martin Shields: When you say that, how is that knowledge going to come to the artist? Where would the kid in the basement making that video at 16 years of age get the expertise to understand that?

Mr. Jason Kee: This is part and parcel of a lot of the investments we make in our creators. Again, we view ourselves as a platform that is empowering others to succeed. We enable their success. We invest in resources to help that happen. That includes many online resources we make available through what we call the creator academy so that YouTube creators can learn how YouTube works and how they can optimize their content. They learn about achieving success based on a number of case studies that other creators have participated in, to sell what worked and what didn't.

It's similar to why we host workshops on the YouTube space. It's why we actually engage in production workshops. It's why we engage in keynotes and engage with the audience to help them build that out, as well as making sure we facilitate networking events to enable creators to speak to each other and learn from each other's success.

The Chair: With that, I will now have to switch.

[*Translation*]

We now go to Mr. Nantel.

You have seven minutes.

Mr. Pierre Nantel (Longueuil—Saint-Hubert, NDP): Thank you, Madam Chair.

Good evening, Mr. Kee.

I was elected to the House in 2011, and I sat on the committee that reviewed the Copyright Act in 2012. That is when I first met you.

How long have you been working for Google Canada?

[*English*]

Mr. Jason Kee: I've been working for Google for just under five years at this point.

Mr. Pierre Nantel: I'm mistaken, then, when I said I met you in 2012?

Mr. Jason Kee: You may have met me. I was previously working with the Entertainment Software Association of Canada for the video game industry.

Mr. Pierre Nantel: Since you've been working for Google for five years, that means you started in 2012. In 2012, the advertising revenue for Google was established to have been about $40 billion in the States, and now it's more than double. Business has been very good, obviously.

As my colleague said, you've given a very smooth presentation. It obviously is your job. You were working for another company before, doing the same work, and I understand the value of this. It's important that all parties talk.

Non-professionals of lobbying came here to talk not to the consumer committee, not to the industry committee, but to the heritage committee, crying, saying they can't make a living anymore because the model has changed. Some others came to say it's terrible, that because the big companies' contracts are so bad, they don't get money. Yes, but the issue is not between the artists, the labels, and the broadcasters; it's because of the new guys in the system, which is you, and all the web giants.

The presentation you did is, of course, enthusiastic. Everyone is flabbergasted by how powerful and dynamic and positive you are. To tell the truth, I've even noticed that Google is one of the most-loved brands on both the Republican side and the Democratic side. You're in a very nice position.

The reality, though, is that artists come to us. David Bussières came to us with a lot of paperwork. He is an interesting artist because he is both a creator and is also self-administering his stuff. He has charts about all this stuff, and he just made this comparison.

David Bussières told us that he had received $153.04, which means 0.5¢ per play, for 60,000 watches of his video on YouTube. On radio, he receives $2.89 per spin.

How do you explain such a difference? You're going to tell me it's a different model, but the reality is that people are shifting towards your model. How do you explain that everybody is angry? The only thing I'll say to anyone about this is, "Well, follow the money." Where is the money? I know it's in California, but it all came into your own pockets—not you, but Alphabet.

You're a great man. I've met you many times. There's no way to say that you're not convincing and that you're not there to protect this technological growth that's outstanding and that we use every day. I'm the first one to be on Google, all the time. However, how do you explain that there's such a discrepancy between your saying, "We do all we can, it's amazing, rah, rah, rah", and people who come here and just cry, saying they can't afford to make a living as creators?

● (1125)

Mr. Jason Kee: There are a variety of responses that I have.

Number one, at least on our platform, we do see a tremendous number of artists and digital creators who are successful. In that respect, I would actually invite the committee to try to speak to them as well, simply because you will get a variety of different perspectives with respect to how they achieve their success and what lessons can be learned from what they are doing to essentially achieve success in the platform. I would be more than happy to facilitate some of those conversations if that would be useful.

With respect to the specific example that you raised, again, it's difficult for me to comment on a specific artist's example.

Mr. Pierre Nantel: Yes, but there are many.

Mr. Jason Kee: Yes, but in this particular instance, it was a comparison of, I'm assuming, an advertising rate based on YouTube views versus a broadcast radio rate, in which case a single spin on broadcast is reaching an audience of 50,000 to 100,000 people. The revenue model is radically different because the value proposition that broadcasting offers is very different—

Mr. Pierre Nantel: Totally, yes.

Mr. Jason Kee: —which is one of the reasons the board sets rates that also are very different, versus, again, 60,000 views. Literally, one spin may have been equivalent to 60,000 views on YouTube—

Mr. Pierre Nantel: Yes.

Mr. Jason Kee: —at which point, we actually paid many times more.

Mr. Pierre Nantel: This comes to a simple reality check. Of course I was there at the time when Galaxie came to ask for licences to play the stuff we were producing at the label. I said, "Well, if your product is going to keep people from buying records because your service is so great, I'm going to ask more from you than the normal rate I ask for radio." I understand that.

The fact is that accountancy checks for artists and for artistry and for all those associated will say, "Well, man, we are losing ground." Some will say, "Well, you know, record labels...."The question is not there; just follow the money.

When we had these broadcaster exceptions 20 years ago, to give them a break with their first $1.5 million of sales in their small radio markets, why did we do that? We did that because they were having a hard time and the artists said, "Okay, we'll give them a break." It's an ecosystem, and they were having a hard time. Now the radio broadcasters are claiming that they are not having a hard time anymore, so they want this provision to stop. It's understandable. It's within the family, because it's things that we regulate, things that we agree on. When we see what's going on in Europe with what has just been said with the European Parliament, for example, imposing on you guys to make equitable deals with the artists, it evokes the same reality in Europe that artists are starving.

How can you explain, for example, that the YouTube revenues for artists vary so much? We have changes, and if I am not mistaken, it's an average of not 7/1,000 of a cent, but 7/10,000 of a cent per play. I understand the situation, but still it varies for a million plays from $250 to $4,000. How can this vary so much? How can it be possible for non-super-big corporations to follow this? How can it switch from $250 to $4,000 per million spins or listens? How can it change like that?

● (1130)

Mr. Jason Kee: As I previously expressed, I think the challenge is that on the ad-supported side there is a high degree of variability because it depends on the specific conditions and circumstances of where that individual artist's or creator's audience happens to be. It depends on the nature of the content they create, which is how they attract that audience. It depends on how attractive that audience is to advertisers. It depends on what the frequency rate is of the ads that run on videos.

Ads don't necessarily run on every single video, mostly because, first, users won't necessarily tolerate it, and second, it depends on whether there are available ads at the time the video is showing.

Just by way of explanation, most of the ads on YouTube are actually run through an auction system. It's called real-time bidding, whereby an advertiser will set basically a maximum bid. Once a viewer is literally watching a video, there will be a real-time bid that occurs and then the winning advertiser will have their ad displayed.

Sometimes—

Mr. Pierre Nantel: No—

The Chair: You're just about out of time. You have a half a minute.

Mr. Pierre Nantel: A half a minute...?

Well, I'll simply tell you that to me, the ecosystem has changed to an online ecosystem, and clearly, just as radio would not exist if it did not have music to play, your system would not exist if there is no content, whether it's creative content or journalism and stuff, so we have to make sure that you do pay your fair share for the content that brings people to your place.

The Chair: Now we are continuing with Mr. Hogg, please, for seven minutes.

Mr. Gordie Hogg (South Surrey—White Rock, Lib.): Thank you.

Thank you, Mr. Kee.

In your submission you commented that you were committed to delivering more revenue to creators in the music industry. Following up on Mr. Nantel's comments, what is the process or plan that you have in place for doing that?

Mr. Jason Kee: One is to create new features and products to basically help the creators and artists diversify their revenue streams. Again, I cannot understate how important this is, primarily because of the variability that happens with ads.

This is why we have been investing considerably in rolling out a premium subscription product for both the video side and the YouTube side. A premium subscription product whereby users are paying a flat monthly fee—typically something like $10 a month—generates considerably more revenue for the creators, and that's why we're investing considerably in expanding that.

We actually only launched the YouTube music premium about a few months ago. We're now in about 20 different markets and we look to expand that. As we enter additional markets, that's a much larger user base for creators to get their share, as well as the additional features like channel memberships, as I mentioned.

This is where a music creator—for example, a musician—cultivates a sizeable fan following. Let's say they have a million subscribers; that can result in some decent advertising revenue, but as I said, it is highly variable. If they have a small portion, if 1% of that is willing to pay them $5 a month to sustain themselves, that's a very healthy revenue stream that they can use to sustain their business and then help to support them getting their artistic work out to the remainder of their audience.

Mr. Gordie Hogg: Did I hear you say we should be doing something about copyright and making some changes with respect to that? Did I interpret that properly in terms of what you said?

Mr. Jason Kee: This is a matter of the partnership that we're engaged in and the features we're launching. It's not so much a function of the copyright system. This is that issue of how you can look at the copyright system to facilitate some of those partnerships by looking at the Copyright Board and transparency issues.

Mr. Gordie Hogg: This is what we're looking at right now.

Did you participate? Did Google participate in the government's consultation processes to help inform us?

Mr. Jason Kee: Which specific consultation processes are you referring to?

Mr. Gordie Hogg: The processes that we've gone through prior to this and this process today.

Mr. Jason Kee: Yes, well, I'll be participating with the industry committee in terms of the context of their review and throughout the process that's ongoing.

● (1135)

Mr. Gordie Hogg: But prior to this, you've not made any submissions or comments.

Mr. Jason Kee: Not to this point, no.

Sorry; I need to correct the record on that. I was before the Senate committee on banking and transport when it looked into the Copyright Board reform. I participated in that, but it was specifically for that aspect.

Mr. Gordie Hogg: Within this broad field, how is infringement defined legalistically?

Mr. Jason Kee: That's a complicated question. Copyright infringement occurs when someone infringes one of the exclusive rights that are given under the act, which includes the right of reproduction, the right of communication to the public, etc.

Whether or not something constitutes an infringement depends on the specific circumstances, and that's what makes copyright very complicated to manage. Even if there's an instance of someone making a copy—someone has appropriated someone else's work and, say, includes it in a video—there are also very legitimate reasons that they're permitted to do so, because there are various limitations and exceptions that exist under copyright, such as fair dealing, for example, that permit limited uses of the work, and there are also a number of specifically enumerated exceptions that exist under the act.

Then even if, on its face, it's a copyright infringement, whether or not it falls under the exceptions is very much subject to the context. That can make copyright very challenging to adjudicate.

A case in point is content ID. It is again an extremely powerful copyright management tool. It is very good at detecting copies of a work that has been uploaded and given to us as a reference file, and then applying automatically a policy the rights holder has selected—block, monetize, or track.

It doesn't do that in a terribly nuanced way. The rights holder tells us how they want to set this up. They can set it up on a territory-by-territory basis. They can set it up so that you can use five seconds of the work, but you can't use 30 seconds, but it can't determine whether or not an exception applies.

Mr. Gordie Hogg: If I were to take something you have on YouTube and download it and then put it out under some other title, would that be infringement?

Mr. Jason Kee: That could possibly be an infringement, depending on the context and specifics of—

Mr. Gordie Hogg: And whether or not—

Mr. Jason Kee: For instance, if you did that, but you were doing it in the context of a news report, it would be a different context, and that might be allowable.

Mr. Gordie Hogg: I note that in September the European Union adopted copyright reforms. In particular, articles 11 and 12 call for news aggregators such as Google to pay media companies when sharing their context and for the use of automated software that would detect and filter out intellectual property violations on all uploaded content prior to its publication online.

What position does Google take on the notions the European Union is introducing?

Mr. Jason Kee: Specifically regarding articles 11 and 13 of the European copyright directive, to be honest, as we've said publicly, we were disappointed in the response. Basically we feel that a partnership model is the best way to approach these issues. The rights as defined were fairly vague and ambiguous, so we're concerned about the broader implications.

Again, this is also not just about Google. This is about the implications of these to the broader open Internet. An obligation to remit a payment just for the sake of linking to an article can be very challenging to administrate, and you may well find that a number of news services will close because they're simply not prepared to pay that.

Similarly, on the filtering side, essentially a proactive liability on an online platform that basically says they have to license all their content up front—

Mr. Gordie Hogg: Sorry; I'm going to have to cut you off because I'm getting short of time.

What you're saying is that you didn't feel the European Union strategy was a positive strategy in terms of being able to address some of the issues we've been talking about. What would you see as being a positive strategy if we were to come out with legislation? What do you think would be one that would address the types of things that the European Union was trying to get at but apparently didn't get at? What do you see as a way to accomplish those same outcomes in a method that you don't feel would hamper the flow of information that you're describing now?

Mr. Jason Kee: I think it's because we adopt fundamentally a partnership approach as a way to facilitate that. Rather than sort of approaching, again, issues of mandatory liability, mandatory filtering obligations and so forth, which may significantly hamper the functioning of the open Internet, find ways where you have some sorts of platforms to connect with, develop programs and find ways to basically support artists to help them basically leverage the power of the open Internet to leverage the power of building these global audiences to achieve revenue streams.

Mr. Gordie Hogg: We're trying to use a consultative process now in getting the information from you to put the framework in place to do some of that. What do you see as you participating with us in terms of that same consultative process that you're referencing with the creators? What do we need to do to put that in place? The legislators in the European Union tried to do that and you don't feel it works or is appropriate, so I need some help in terms of where you think we should be going to achieve that same end.

The Chair: We're going to have to get that answer either in writing or through an answer to another question, because we will be moving now to Mr. Yurdiga, please, for five minutes.

● (1140)

Mr. David Yurdiga (Fort McMurray—Cold Lake, CPC): Thank you, Madam Chair.

I thank Mr. Kee for coming out and presenting from the perspective of Google.

I had the opportunity to talk to some artists who have a different viewpoint. They think the system is working well for them and they use the digital media platform to encourage people to come to their concerts, to get a following. One said that on the digital platform, in itself, he cannot make a living, but he uses it as a tool to get people to come out to his live performances, whether it's a concert or whatever it may be. He says he looks at it as a business. He just can't focus on one thing; he has to do all things to be successful.

Can you comment on your experience with people who prefer the system the way it's working, who don't use it as a sole revenue source?

Mr. Jason Kee: I think you've hit the nail on the head. That's often the approach that we see with successful creators who are able to properly leverage the platforms and turn them into significant businesses over time.

Again, it's that creative entrepreneurial approach whereby you're leveraging the platform. Yes, the platform provides you some revenue, but it's actually being able to build the global audience, to leverage that into doing things like live events, doing things like brands and sponsorship deals, doing things like book deals, doing things like merchandising. In that way you can achieve a successful, sustainable business.

These are repeatedly the examples that we see. If you want an example, How To Cake It is a successful channel, one of the most successful cooking channels on YouTube. It was on TV, but they cancelled it, and they shifted over to YouTube. They had a very comprehensive e-commerce strategy: they produced weekly videos, but they also had a merchandising strategy, an e-commerce strategy, that they executed and then were basically receiving millions of subscribers within the course of six months. That's because they fully leveraged and understood the power of the platform and turned that into appropriate revenue streams.

The fundamental thing is to have creative entrepreneurs of the type you spoke to and the type I speak about and find ways to have them engaged with other artists who are having more challenging times on the platform, to see where there are opportunities for them to build out, as well as to take advantage of additional features that we're basically introducing in the platform to help them get additional revenue streams.

Mr. David Yurdiga: Thank you.

In some instances, a lot of artists enter a market through YouTube. They get a following and they're able to get their work out there. What are the challenges, do you think, for the artists who rely just on content? Do you think they have to change their model to survive, or do you think that we should rejig the remuneration somehow to ensure artists who just produce content but don't do the other things.... Should that change to ensure that artists who don't do the others should be able to make a living off of it?

Mr. Jason Kee: I do think that artists who are in that position are in a more challenging position than artists who can basically fully leverage the power of the platform. In those instances, I think it is critically important to examine ways that you can either encourage them to engage or, more specifically, find partnerships or other opportunities to engage and find consistent revenue streams.

The example that was raised with the Screen Composers Guild, essentially they were raising concerns with respect to the royalty payments through SOCAN, which, by the way, we have a licence agreement with. It was interesting in terms of finding ways that composers can work with YouTube creators who are achieving success on the platform but are not necessarily musicians. They were looking for sound tracks and looking for music and artists that basically assist them. I think that is also a very viable opportunity for them.

Mr. David Yurdiga: We look globally. Google is global. Is the issue the same in every country? Are their models better than the Canadian model, for example? Do you know of any place that's doing a great job, so that remuneration to the artist is of more value compared to other markets?

Mr. Jason Kee: It's the same challenges that you basically have overall. Often it depends on the specific marketing conditions in individual countries. Again, I think Sweden is often pointed to because it's the birthplace of Spotify, which they do fairly well, but that's in part because they have a market there that is very willing to pay significant sums in the form of subscriptions to music streaming services. If you're in a market where the users aren't as willing to do that, it can be more challenging.

This is also one of the reasons that as much as we're investing significantly in creating premium services and subscription services to increase the range of revenue that creators can receive, at the same time, ad-supported platforms still have a significant role. Number one, they actually drive people into premium services; secondly, they help monetize that class of audience, the 80% of people who would simply not be willing to spend $10 a month on a music subscription service. We saw some studies that suggested that if you don't offer them an ad-supported platform, they'll just shift to other non-monetized sources, namely piracy.

● (1145)

The Chair: Thank you.

We'll now go to Ms. Dhillon, please, for five minutes.

Ms. Anju Dhillon (Dorval—Lachine—LaSalle, Lib.): Maybe you could continue with the comments that were cut off before, and also send them in writing, as our chair has mentioned.

Mr. Jason Kee: Certainly. Can you refresh my memory?

Ms. Anju Dhillon: Yes, it was Mr. Hogg's question.

The Chair: Go ahead, Mr. Hogg.

Mr. Gordie Hogg: I was just referencing the European Union again. I think it's the area you were talking about, and Google's expressed opposition to the reforms, arguing that they would hamper the flow of information, turn tech companies into content police, and lead to the web's ossification. What would you recommend to us? What would you see as the policy practices or legislation we should be putting in that are going to complement the industry, the creators, as well as accommodate those who are going to provide the platform?

Mr. Jason Kee: Thank you for refreshing me.

In many respects, again because of our approach here, we very much view many of these challenges fundamentally as a business challenge. It has to do with the nature of markets, the nature of what users are willing to pay, what they are willing to tolerate. How can we encourage them to funnel more money into the industry and into the ecosystem so we have a sustainable ecosystem, because again we have a partnership model that means we're a success depending on their success.

In that instance, we don't necessarily view a legislative response as the initial wage responses, because that's a very unwieldy and blunt instrument that could have many unintended consequences, which is largely what generates our concerns with respect to what has been proposed in the European Union.

I think that in looking at it from a policy perspective, finding ways that are not legislative to encourage the parties to come together, one of the core roles I see government can play outside legislation is one as facilitator. You are the honest broker who can bring parties together to have discussions to work things out and figure out the best approach going forward. In many respects I think that is a logical place.

Also, as I said, there are the issues with respect to transparency, mostly so individual artists can have full visibility into where the revenues flow from, which in many cases they don't necessarily know. All they know is the cheques they receive at the end of the month.

Mr. Gordie Hogg: You made reference to consultation a number of times in being able to do that. You're telling me this is what you're doing now, that there's a fair amount of consultation going on, and that's the strategy that Google uses, yet we haven't come to an agreement. Mr. Nantel pointed out a lot of frustration within the industry, and obviously we want to see how we can develop a fair process.

"Facilitation" is a nice word and you've been trying to do this for some period of time, but it doesn't appear to have worked, based on the information we're getting and the need for us to do this study. We're going to have to come back with something, and it looks as though it's going to have to be legislative in nature. If it is, what would you suggest that legislation should be?

Despite your saying it's messy and problematic, we don't seem to have a lot of options at this stage, because the marketplace isn't working in a way that appears to be equitably addressing the issues. Then it becomes incumbent upon governments to look at strategies that could create the principles and values we want to have reflected in Canadian society. How would you see that legislation coming about? What would that look like if you had to do that?

Mr. Jason Kee: I think it's a long way of saying that outside of what I've already suggested, we don't have specific proposals with respect to this, at least in our view.

I did participate in the copyright review five years ago. The Copyright Modernization Act of 2012 achieved a balance among the various parties that were engaged there. We supported that balance, and the government seemed to support that balance recently as well, and has defined ways within that framework to increase monetization opportunities.

Again, it's not clear to me how it would be legislatively easy to achieve, simply by virtue of the fact that we're talking about things like setting market rates and so forth, which is, again, a very heavy-handed approach.

Mr. Gordie Hogg: I don't think any legislation is easy any time you're looking at trying to reflect the broad values of society and trying to put them in a place that will work and reflect what you want to accomplish as a society. If I'm interpreting what you're saying, it's that we should continue to consult and see how that works out, and try to set values or principles to be reflected within that consultative process. Is that what you're suggesting?

Mr. Jason Kee: Again, as a matter of policy, you could outline ways to bring the various parties together. As you are going to be engaging further during this process and hearing from other witnesses, this is also where I would strongly encourage the committee to hear from a range of creators, including those who have been successful on digital platforms, so that you have an inclusive view of those creators who have been able to achieve success—what worked for them and what didn't, and what their own recommendations might be.

● (1150)

Mr. Gordie Hogg: We have been doing that. That is part of the process we've followed, completely.

The Chair: We will now go to Mr. Webber.

I understand you are sharing your time with Mr. Yurdiga for a combined five minutes.

Mr. Len Webber (Calgary Confederation, CPC): Thanks, Madam Chair.

This is my first time sitting on the heritage committee. I'm usually at the health committee. In my three years there we've been talking about rare diseases and anti-microbial resistance and diabetes and concussions, so being here today and listening to your presentations is a breath of fresh air.

It's kind of ironic, because my family is very much into music promotion in Calgary. We have a television program, *Stampede City Sessions*. I don't know if you've heard of that or not. They're throughout the Pacific northwest and Memphis and Nashville in Tennessee. When we produce a show, we bring in local talent to play at our performing arts centre. Local talent, international talent, Canadian talent from throughout Canada—we bring them in and we showcase their talent. We're quite proud that we're helping these young individuals and bands do well.

From getting to know some of the artists, I know they absolutely love YouTube. That's how they market their talents. Without your services, without the Spotlight channel that you mentioned, and Creator on the Rise and all these different programs, they would certainly struggle, more so than they do now. I think of someone like Justin Bieber. He started out on YouTube, did he not? Was that not where he was discovered?

Mr. Jason Kee: That's correct. More recently, Shawn Mendes, who I think was mentioned at this committee as well, basically found his life on YouTube.

Mr. Len Webber: Right.

Again, my comments are more just to say thank you to you at Google and YouTube for doing what you do to help out these young artists. You mentioned seminars, for instance, on how to market their talents. I think you do a great job. You have me addicted to Google and YouTube. I don't know if I should thank you for that or not.

Voices: Oh, oh!

Mr. Len Webber: Does Justin Bieber help you out at all now that he has made it big?

Mr. Jason Kee: He's still very prominent on the platform. His latest album was released on the platform. This is part and parcel, as I said, of a number of music-specific features that we've been deploying. He actually has an official artist channel that allows him to sell merchandise and do all sorts of different things.

Again, Shawn Mendes in particular is a new up-and-comer— "the new Justin Bieber", as he's often called—who's been tremendously successful.

We just supported a documentary shot by a YouTuber named Casey Neistat on Shawn Mendes's up-and-coming experience. He taught himself to play guitar on YouTube and built an audience following after he did a fan meet-and-greet. Everyone said he should try to do it for a living. That, coupled with incredible talent, basically led to him creating covers, which led to him being discovered, which led to him basically being the youngest top-25 artist in history. Again, that's a tremendous success story.

Mr. Len Webber: Exactly.

Go ahead, David.

The Chair: Go ahead, Mr. Yurdiga.

Mr. David Yurdiga: Thank you.

I want to talk a little bit about revenue sharing as time has progressed. Obviously, before the platform there were hard copies, such as CDs or DVDs. It seemed there wasn't as much talk about remuneration for the artist. However, once it switched from the hard copy model to downloading and then streaming, there seemed to be less and less pie left over for the artist.

Has the music industry adjusted to the new realities? I know that video gamers have adjusted quite nicely. The digital platform is working well for them. It seems that artists haven't changed with the new realities. Can you comment on that?

Mr. Jason Kee: I think it very much depends. For instance, Citigroup did a study that discovered that only 12% of overall remuneration flowing to the music industry was actually flowing back to the individual artists. This is the supply chain matter that I mentioned. While that's obviously not a great figure and we need to find ways to improve it, the other point they made was that back in 2000 it was 7%, so in terms of the share that's going to the artists, they're actually seeing more than they were I guess 20 years ago.

The principal reason is that now there are so many opportunities through digital platforms like YouTube and others that they can actually self-release. They can control their own future through us, and they can do the same thing through Spotify and Google Play Music and so forth. When they manage it themselves, they see a greater share of the revenue, because of course they're taking on all those additional responsibilities. When you add additional players into the value chain, that when's everyone takes their piece. That's where the cut comes in. Back in the days of the CD, the only way you could have a record released was to go through a label. That's how it was, but that's not the case now.

● (1155)

The Chair: That takes us to the end of your five minutes.

[*Translation*]

We once again give the floor to Mr. Nantel, who has the last five minutes.

Mr. Pierre Nantel: Thank you, Madam Chair.

Mr. Kee, after the 2% on ad revenue, the European Union is preparing to require a quota of 30% to 40% of local European content on your platforms.

What percentage would you say Canadian content currently accounts for on your platforms?

[*English*]

Mr. Jason Kee: Percentage-wise, that is difficult to determine. It's difficult to determine what would qualify in overall percentage relative to the overall YouTube corpus. Also, with 400 million hours of content uploaded every minute, it becomes a bit of a meaningless statistic.

[*Translation*]

Mr. Pierre Nantel: Obviously, everyone knows that the figures that are being considered are definitely possible.

There is no doubt that all parties will ask you to help us properly determine the percentage. Canadian cultural content and Quebec music have been flourishing because criteria have been imposed on broadcasters to reflect our culture in their offering.

I would also like to talk to you a bit about taxation. Do you collect sales taxes on your subscriptions and advertising sales?

[*English*]

Mr. Jason Kee: With respect to GST or HST, no. That's because the nature of the legislation is such that if you're providing services from outside the country, it's an issue of whether or not you're required to collect and remit. We are working now to comply with the Quebec regime that was introduced recently, which we expect to do by January 1 of this year.

There are other services that are actually provided in-country, and because they're provided in-country, we do collect.

[*Translation*]

Mr. Pierre Nantel: Could we hope, as Canadians, that your services and advertising revenues collected in transactions with Canadian advertisers would be revenues declared in Canada?

Is that in the realm of possibility?

[*English*]

Mr. Jason Kee: With respect to the GST, one thing that—

Mr. Pierre Nantel: No, I'm not talking about the GST. I'm talking about the fact that if you're selling advertising space, we know getting the commission back to creators is tough, as you say, but are these sales made in Canada and are they taxed? Are there taxes paid by Google or Alphabet on these sales in Canada? Are these taxes paid in Canada?

Mr. Jason Kee: We pay corporate income tax on operations in Canada. It's not necessarily sales. This is actually part and parcel of a much more complicated conversation that is happening in the the OECD with respect to the taxation of intangible goods and services and how that interacts with international taxation regimes—

Mr. Pierre Nantel: Then we are importing advertising space from the States, from your place. We are importing lemons and kiwis, and we are importing advertising opportunities from you. We actually send Canadian cash outside of the country to pay for these. Is that correct?

Mr. Jason Kee: Again, it depends on the nature of the advertising. For example, with display advertising, YouTube advertising, as I was saying, when an advertiser spends money on that, the bulk of that revenue actually flows back to the creators. That would include Canadian creators. It flows back.

Mr. Pierre Nantel: I'm going to ask you if you're telling me that

[*Translation*]

a percentage of advertising revenues goes to creators.

You explained why it was difficult to say that it ranged from $2 to $600, as it varied based on value, bidding and advertising space.

Nevertheless, a percentage goes to creators. What percentage do rights holders get?

[*English*]

Mr. Jason Kee: With respect to YouTube, there's some variability there. It's basically a minimum of 55% or above; it depends.

Mr. Pierre Nantel: Fifty-five per cent of the advertising revenue going to YouTube goes to the rights holders?

Mr. Jason Kee: Correct, or above. I have to be clear about this. That's the minimum amount.

Mr. Pierre Nantel: This sounds good. We'll have to dig through these numbers.

● (1200)

[*Translation*]

Do you earn any advertising revenues on content uploaded by users illegally? Is that possible?

[*English*]

Mr. Jason Kee: Is it possible that it could potentially happen? Yes. This is why we deploy a system like Content ID: we ask rights holders to upload reference files that we can compare. Basically, we have them decide what they want to do to take action against that: whether they want to block it entirely, whether they want to monetize it—in which case the ad revenue is actually diverted to them—or whether they just want to track it.

[*Translation*]

Mr. Pierre Nantel: I completely understand the importance a system like Google can have. I understand that you have met with the government many times.

How many times have you met with the chief of staff at Canadian Heritage, Leslie Church, who used to work for Google?

[*English*]

The Chair: I'm sorry, but unfortunately that puts you at five minutes. You might want to talk about that afterwards, but that's the end of our time, because we are actually at noon.

Thank you very much.

We're going to suspend for a few minutes, and then we will regroup with our next set of witnesses.

● _____ (Pause) _____ ●

● (1205)

[*Translation*]

The Chair: We are back.

As we continue our study, we are hearing from Francis Schiller, from Border Broadcasters, Inc., Catherine Jones, from Connect Music Licensing, and Mathieu Dagonas, from the Documentary Organization of Canada.

We will start with Mr. Schiller please.

[*English*]

Mr. Francis Schiller (Canadian Advisor, Border Broadcasters, Inc.): Madam Chair, vice-chairs, members, clerk and committee staff, thanks for the opportunity to appear before you today as part of your study on remuneration models for artists in the creative industries in the context of copyright.

My name is Frank Schiller. I'm here as a Canadian adviser to Border Broadcasters, Inc., a not-for-profit copyright collective representing 26 local over-the-air American television stations, including ABC, CBS, NBC, and Fox affiliates located along the Canada-U.S border from coast to coast.

As part of your study, I hope to inform and seek your committee's support on three fronts.

First, I hope to share with you a better understanding on how the current Canadian retransmission and copyright regimes are fundamentally unfair, not only for U.S. border stations, but also for Canadian viewers and broadcasters alike.

Second, I urge your committee to support and recommend retransmission consent as a new Canadian remuneration model available for local over-the-air broadcasters, including U.S. border stations, as a means to provide badly needed new commercial revenues to create industries.

Finally, I encourage the committee to recommend the necessary legislative changes to the Copyright Act to facilitate the implementation of these new remuneration models and to ensure fairness and nondiscriminatory treatment moving forward.

Local and distant signals and programming from U.S. border stations form part of Canada's regulated pay-TV services. Signals from these stations are appropriated, packaged in channel bundles, and sold to Canadian cable and satellite TV subscribers in every market across Canada. It's the Government of Canada that enables these U.S. stations to be listed and licensed for authorized Canadian distribution. What's remarkable is that this happens without notice to, consultation with, or consent from the U.S. station owners in the process. These Canadian practices are discriminatory and fundamentally unfair against U.S. stations. Consequently, the owners of these stations retransmitted in Canada experience demonstrable economic injury and harm under copyright, advertising, and consent for remuneration opportunities.

Canada has been importing U.S. television signals and programming for over 50 years. Initially, these practices and policies were intended to provide a direct subsidy to the then fledgling Canadian cable and satellite industries. It was a simple business model: Take for free from U.S. television stations and sell to Canadian pay-TV subscribers.

As technology changed from cable to satellite and then digital, the number of U.S. stations listed for retransmission in Canada exponentially increased from an original set of three U.S. channels to now multiple sets of what are known as the U.S. "4+1s", plus superstations and more. The average Canadian TV subscriber is likely now to receive between eight to 15 over-the-air U.S. stations in their channel packages.

It was not until the early 1990s that U.S. stations even became eligible to receive copyright remuneration for their programs on distant signals retransmitted in Canada. This followed from efforts under the Canada-United States Free Trade Agreement to provide compensation consistent with the 1976 U.S. Copyright Act.

After 30 years of administration, U.S. TV stations are still waiting for non-discriminatory treatment in Canada. Canada does not require reporting, auditing or notification provisions when Canadian distributors are licensed to package and sell listed American channels to Canadian TV subscribers. As a result, U.S. stations cannot reasonably determine where and when their digital broadcast signals and programming are sold to Canadians.

Canada accepts inaccurate and incomplete data for Canadian viewership of retransmitted American stations, and this also causes economic injury to U.S. station owners.

For example, in 2010, TV viewing measures changed in Canada with a significant under-representation of U.S. border stations. At the same time, Canada changed distant signal regulations. The immediate impact was the significant under-reporting of Canadian viewership of U.S. stations. Consequently, copyright allocations to U.S. border stations were retroactively reduced by 64%. Border Broadcasters, Inc. received an unfair liability of over $8 million moving forward.

It's in the public interest and supported by sound public policy for the immediate remission of these unfair copyright liabilities retroactively adjusted against Border Broadcasters, Inc. It's also notable that local stations receive no copyright remuneration on local signal retransmissions in Canada, and this can be easily addressed with a small change to the Copyright Act.

● (1210)

There are many other examples of unfairness for U.S. stations under Canada's regime, including over the introduction of HD services. The bottom line is that Canada's copyright system is not providing for non-discriminatory treatment of U.S. stations. There's something fundamentally wrong with the Canadian listing process that allows the Government of Canada to decide what broadcast signals can be carried, without input or consent, even in cases where the signals are not available off air in Canada.

The unfairness is only compounded given that Canadian cable and satellite operators willfully alter U.S. signals by covering commercials, stripping out materials such as closed captioning, or inserting advertisements overtop of the retransmissions. Canada does not require an international trade agreement to reform its procedures here and remedy an inherently flawed and unfair process.

In 1992, the U.S. Congress established a retransmission consent regime for U.S. stations. Local stations can negotiate compensation for the retransmission of their signals by cable and other pay-TV distributors. These retransmission consent fees are now vital sources of revenue for local stations, which rely on the income to invest in modern digital broadcasting infrastructure, to deliver expanded local news offerings and to have emergency alert systems.

New commercial revenues from consent rights in Canada's listing and licensing processes, in addition to non-discriminatory copyright remuneration, will also benefit local Canadian stations and TV viewers. Canadian broadcasting will benefit from new commercial revenues that will offset the growing losses year over year for Canada's private conventional broadcasters, which now stands at more than $700 million in losses over the last five years. In contrast, the U.S. experience confirms that local TV stations are profitable. Recent studies also highlight that in most small and medium-sized markets, it's the local television stations that are the primary creators and generators of local news online.

Now, with the digital transition complete, in addition to high-definition multicasting, U.S. stations are getting set for the interaction of a new digital broadcast standard, ATSC 3.0. This includes next-generation digital delivery services to both fixed and mobile receivers, seamlessly combining over-the-air and broadband delivery.

Under Canada's current unfair regime, Canadian TV subscribers are paying the price with higher TV fees, reduced local news offerings, diminished digital services and an inferior TV experience. Canadians pay for the price of costly duplicate American programming in their TV channel bundles whether they watch the duplicate programming or not. It is Canada's copyright and retransmission regimes that provide the economic incentive for the oversupply of U. S. services by Canadian distributors to Canadian subscribers. At the same time, Canada's local broadcasting infrastructure is not being converted from analogue to digital in all markets. Consequently, the availability of free HDTV off-air reception is being reduced for some Canadians.

Finally, the cost of these recommendations, including new remuneration models and fair copyright on Canadian pay-TV subscribers is likely to be negligible to positive, with a reduction in pay-TV fees possible depending on channel bundling and implementation.

Local TV brings us together. Cross-border television reflects our common values, our shared communities of interest and our programming diversity. Local U.S. border stations have a distinguished legacy of strengthening and deepening the relationship between Canada and the United States. By addressing the fundamental unfairness that underlies Canada's retransmission and copyright regimes and embracing retransmission consent, your committee will deliver new remuneration opportunities for creative industries, including local news, and this will benefit local viewers, communities, creators and broadcasters on both sides of the border.

Thank you.

● (1215)

The Chair: Thank you.

I'm just going down the list in order, by the way, so you understand why I'm jumping to the other side.

We're going to Ms. Jones, from Connect Music Licensing, please.

Ms. Catherine Jones (Executive Director, Connect Music Licensing): Good afternoon. My name is Catherine Jones, and I'm the Executive Director of Connect Music Licensing.

I'm lucky to have worked in the music industry for 25 years, at a record label, at a broadcaster and now at Connect. I've witnessed first-hand the seismic shift that has occurred since the dawn of the digital age. In my early days at Universal Music Canada, I remember when we first got email—first internal, then external. It was the beginning of a series of changes that would fundamentally alter the way musicians and record labels are paid for their work and investment. As a result of these changes and the effect on the industry, I have been through five major restructurings, and I made it through four.

At Connect, we represent more than 2,700 rights holders of sound recordings in Canada. Our membership spans the breadth of the Canadian music industry, ranging from single self-produced and self-released DIY artist-entrepeneurs to Canada's largest record labels, with Canada's leading independent labels in between.

Our mission on behalf of our members is to return maximum value when their sound recordings are used commercially by others. This includes distributing royalties for public performances or recordings, negotiating licence agreements with commercial music users, and collecting licence fees from those who make reproductions of our members' sound recordings. Our licensees include services like Stingray, background music suppliers, radio and television broadcasters, online music services like iHeartRadio, and many more.

To elaborate on the seismic shift I referenced earlier, new technologies have changed the ways music is accessed, consumed, reported and paid for by music users. Just like so many of our members, Connect has adapted in order to unlock the greatest value for our members as the ways we listen to and interact with the music have evolved.

Two years ago, Connect completed a drastic overhaul of our operations with our partners at Re:Sound, which slashed our administrative costs by 28%, putting $1.2 million annually in additional royalties into the hands of Connect members. As part of this overhaul, we identified and eliminated duplicative processes and implemented a simpler, more direct way to connect the identifiers our members provide about the recordings directly with the data Re: Sound receives from commercial music users. This generates more revenue for our members, expediting and increasing their paycheques when their music is used.

We are a lean and nimble music licensing company, committed to international best practices, and we've done what we can to get more of every dollar that we collect into the pockets of music creators within our current copyright framework. The reality for our members is that within that framework, there exists a massive gap between the value of their music and what is returned to them by the music users who commercially use and profit from their music.

This disparity is known as the value gap, a term you've all become very familiar with during this study of remuneration models for artists and creative industries. The value gap is not the result of a failure by the music industry or the artist to adapt; it is the result of misapplied and outdated copyright legislation that has not kept pace with technological change.

To give you an idea of the scale of harm of the value gap, between 1999 and 2013, global music revenues decreased by approximately 70% in real terms. In Canada, between 1997 and 2015, music revenue fell to just one-fifth of what it would have been if it had kept pace with inflation and real GDP growth. Industry is only now, in the last three years, seeing a modest return of growth.

Andrew Morrison of The Jerry Cans and artist and label owner Miranda Mulholland, both members of Connect, appeared before this committee and offered a first-hand glimpse into their economic realities. It is becoming increasingly difficult for them to rely on the value of their recorded music for financial stability. They worry that the middle-class musician is disappearing.

There are, however, changes to the Copyright Act that this committee could recommend that would immediately improve the music ecosystem for Connect members.

The first would be to remove the $1.25-million radio royalty exemption. Since 1997, commercial radio stations have only been required to pay $100 in performance royalties on their first $1.25 million in advertising revenue. This two-decades-old exemption is outdated, inequitable and, in 2018, wholly unjustified. I understand that this recommendation has received a fair bit of attention at this committee, so I'd like to provide some clarification.

We heard the concerns expressed by community radio stations during last week's hearing. To be clear, what has been proposed by music industry groups and artists would have no effect on community radio stations. Community radio stations are not covered by the $1.25-million exemption. They are, in fact, separately exempted entirely from royalties, other than the nominal payment. We support retention of the community radio station exemption, which requires a total of $100 in royalties to be paid by such stations annually to record labels and performers. That said, Canada's largest vertically integrated media corporations—commercial enterprises that benefit from the exemption for each radio station that they own—no longer need to be subsidized by musicians and record labels.

The second change would be to amend the definition of "sound recording" in the Copyright Act. The current definition of a sound recording excludes performers and record labels from receiving public performance royalties when the recordings are broadcast in film and television soundtracks.

● (1220)

Miranda Mulholland summarized this problem succinctly when she appeared before this committee with her *Republic of Doyle* example. Even though her fiddle-playing features in almost every episode of the show, and despite this program being syndicated in multiple global markets, she only received a one-time, union-negotiated fee for each studio session.

Contrast this with the experience of screen composer Ari Posner, representing the Screen Composers Guild of Canada, who told the committee last week that he could not survive on his upfront fees alone and that he relies on the royalties he receives from the public performance of his compositions to pay his bills and support his family.

Our recommendation is simply that performers and record labels be afforded the same rights as composers and publishers when their work in film and television is broadcast or performed.

Number three, we also recommend the creation of a private copying fund. This will ensure that recording rights holders and performers, as well as composers and publishers, are fairly compensated for non-commercial reproductions of their recordings, without creating an extra cost for the consumer.

I teach licensing and copyright at Humber College in Toronto. The introduction I give to my students about Canadian copyright law is that any song you hear on the radio, on a streaming service, on vinyl, or on a CD has two separate and distinct copyrights that make up the whole.

One of them is for the composition for the lyrics and the notes in the song; the other one is for the sound recording, or the song, which covers whoever creates it and the musicians who perform on it. In almost all uses of music, the two rights are treated equally—in downloads and streams, for example—but in film and television, and with the radio royalty exemption, they are not. The effect of these provisions is that my members are subsidizing massive media companies that are syphoning value away from their music.

On behalf of Connect's members, I ask that you give careful consideration to these recommendations to close the value gap in Canada.

Thank you.

The Chair: Thank you.

Now we will go to the Documentary Organization of Canada, with Mathieu Dagonas.

Mr. Mathieu Dagonas (Executive Director, Documentary Organization of Canada): Thank you, Madam Chair.

Thank you, members of the committee.

My name is Mathieu Dagonas, and I am Executive Director for the Documentary Organization of Canada.

DOC is the collective voice of independent documentary filmmakers across Canada, a national non-profit arts organization representing over 800 directors, producers and craftspeople from all provinces and regions of the country working in the documentary genre.

DOC advocates on behalf of its members to foster an environment conducive to documentary production and strives to strengthen the sector within the broader film and television production industry. In so doing, DOC seeks to ensure that viewers in Canada and abroad have access to high quality, original programs reflective of current Canadian events, lives and values.

By the way, 25 years ago we were also the founders of the biggest documentary festival in Canada, Hot Docs, and POV magazine, the largest magazine in Canada on the documentary community.

Canadians can be proud of the broadcasting system that has been built over the past 80 years. It has encouraged and sustained successful public and private broadcasters. It has supported the creation of a respected production industry. Most importantly, it has reflected Canadian values and told Canadian stories to audiences throughout Canada and around the world.

However, the system badly needs updating, as you all recognize during this important process that is now under way. In DOC's view, the key policy declarations set out in section 3 of the Broadcasting Act remain valid. For this committee, the policy requirement that:

> each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming.

is particularly relevant.

The policies designed by government and the CRTC to ensure the creation of quality Canadian programming have also worked well.

In the digital age, however, there is a key missing piece, which I am sure you've heard much about. As audiences increasingly turn to the new digital streaming services, we have no policies in place to ensure that these services, both foreign and Canadian, contribute appropriately to the creation of quality Canadian programming.

In the old analogue days, the CRTC ensured an indirect contribution from U.S. border stations and specialty networks through its simultaneous substitution rules, and foreign specialty services helped drive subscriptions to Canadian cable and satellite distributors that are required to offer a preponderance of Canadian channels.

Digital streaming services, however, are currently exempt from regulation and make no contributions to the Canadian system. The CRTC's 1999 exemption order for Internet-based broadcasting services was based upon its conclusion that licensing such services would not contribute in a material manner—believe it or not—to the objectives of the act. What may have been true then is clearly not true today.

DOC is pleased that the CRTC, in its recent report to the government, recognizes this situation. I won't read the entire quote, but I'll take a slice of it. The CRTC states:

> ... if legislative change is to take place, it should clearly and explicitly make any video or audio services offered in Canada and/or drawing revenue from Canadians subject to the legislation and incorporate them into the broadcasting system. This should apply to traditional and new services, whether Canadian or non-Canadian. Further, any new or revised legislation should be founded on the principle of ensuring that Canadians continue to have access to high quality audio and video content and that is made by and for Canadians, as well as the best content from around the world, regardless of the platform, device or technology they wish to use. This principle is, in essence, similar to many of the current Broadcasting Act objectives, updated to better reflect the future of content distribution in Canada.

This is the greatest challenge for policy-makers today, and I don't envy your position. It is also the policy with the greatest potential benefit to Canadian producers and the one that most directly bears on the work of the committee.

If an appropriate contribution from digital streaming services can be achieved and a fair copyright framework is in place, Canadian documentary producers will be able to negotiate fair remuneration for their programs using the existing mix of private investment, tax policies, licence fees and public-private funding agencies.

We see other avenues as well to ensuring fair artist remuneration. To put it simply, it's growing the pie. I know it's slightly outside of the scope here, but these avenues include: an investment into Telefilm Canada of $50 million, supported and brought forward by the CMPA a few weeks ago; a topic the minister knows well, a return of the CIFVF, something DOC is committed to working with committee members on, and a relaunch of this fund that was abruptly cancelled in 2009 to help francophone, rural and indigenous stories get made and seen, which they often are not; and fair pay for equal work, to ensure the system prevents broadcasters from paying a fraction for work placed on digital platforms that would otherwise pay a living wage if commissioned for TV, for example.

Finally, and more closely related to the scope of the committee's work today, the Canadian Copyright Act allows for the use of material from copyright-protected work—literature, musical scores and audiovisual works—for specified purposes without permission from or payment to the copyright owner. These purposes include research, private study, education, parody, satire, criticism, review, or news reporting.

● (1225)

In fact, we're users and we're rights holders. This rule, called the "fair dealing exception", is often utilized by documentary filmmakers and is necessary to represent reality more completely and truthfully within our work. While its practical applications aren't perfect, we believe this provision must remain intact beyond this review.

Thank you for your attention. I will happily answer any questions you have.

The Chair: We're now beginning our question-and-answer period. We'll start with Ms. Dhillon for seven minutes, please.

Ms. Anju Dhillon: Thank you to our witnesses for being here.

My first question is for Ms. Jones.

You spoke about the value gap for artists. Can you please explain to us what this is and what changes you would like to see made to the legislation so that there could be fairness for artists and composers?

Ms. Catherine Jones: We're looking for equality when it comes to the payment of the public performance royalties with respect to radio versus film and television. We're looking for the removal of the $1.25-million radio exemption, and we're looking for an opportunity to create a private copying fund.

Ms. Anju Dhillon: In recent years there have been many changes to technology. It's rapidly able to do things it wasn't able to before. How has this affected remuneration for your members?

Ms. Catherine Jones: The model has changed from transactional —purchasing a CD, purchasing an album, vinyl, or even a download —to a one-size-fits-all monthly fee that allows you to consume as much music as possible. We're now dealing with going from a lump-sum fee for one particular unit—a song or album—to micropayments for multiples, so the opportunity, the revenue, has decreased exponentially.

● (1230)

Ms. Anju Dhillon: Do you think the federal government could help with fair compensation, and if so, how do you think so when it comes to this aspect, the technological aspect?

Ms. Catherine Jones: On the technological aspect, going back to the private copying regime would certainly help, because there isn't anything in place right now to cover artists and creators when their music is copied onto new devices.

Ms. Anju Dhillon: In the last few years, the video music industry has changed as well. Can you please tell us how this has had a negative impact on your members?

Ms. Catherine Jones: Absolutely.

We license music videos as well, specifically for television, and a bit of online, but traditionally it's the music video market on television with MusiquePlus and MuchMusic. There were many other stations that played music videos. They no longer exist.

Ms. Anju Dhillon: Okay.

My next question is for Mr. Dagonas.

Could you tell us how documentary filmmakers and documentary films are being affected by copyright?

Mr. Mathieu Dagonas: That's a good question.

Again, we are users and rights holders in that scenario, so fair dealing in particular affects our work. In terms of fair dealing, documentary filmmakers are able to take content from copyrighted material and use it within their work.

What happens, practically speaking, is that once they go to the insurance companies and speak to their lawyers, they still have to pay a number of fees to purchase the copyrighted material, because the exemption isn't necessarily well understood by the landscape. That affects, obviously, our bottom line.

In both of those scenarios, our filmmakers want to be able to use that exemption to create truthful and meaningful stories and not have to pay the fees that they are often charged even today, despite the exemption existing. It could be 20% to 30% of their entire project budget, which can range from $20,000 to $1 million for a documentary.

Ms. Anju Dhillon: We've heard testimony about copyright literacy. What has your organization done to help the members understand better?

Mr. Mathieu Dagonas: We've commissioned a number of reports over the course of the last 10 years. I've been in my job seven months, so I can't speak exactly to those reports. However, we've commissioned a number of reports that were graciously funded by a number of agencies as well.

We've worked with partners across the country and different agencies on those reports, which educate the entire population on the work of documentary filmmakers. More conversation specific to this dialogue around fair dealing is required, and certainly it would be helpful to have government partners at the table with some insurance companies to further that discussion.

Ms. Anju Dhillon: Digital technology has changed every aspect of the creative world. In your opinion, has this helped progress in documentary filmmaking or hindered it, and what changes could we make to the copyright legislation?

It's a big question, so take your time.

Mr. Mathieu Dagonas: Yes, it's a big question.

I think it depends on the filmmaker. Some filmmakers have certainly adapted more quickly to the changing landscape, and some of them rely on broadcasters to continue to commission their work. With fewer broadcasters and fewer buyers in the market, there are diminishing funds.

I spoke to the pie getting smaller, or encouraging the government to increase the pie. I think that is important, so that it is a more competitive market with more documentary filmmakers, because again there is a higher demand for the genre not only in Canada but, as you know, with Netflix and others. We commissioned a survey or a report that showed that people watch their documentaries on many platforms, but Netflix is number one. In light of that, again we think that there's some work to be done from a fair dealing standpoint and also from a digital standpoint. Documentary filmmakers are often starving artists—I think you mentioned it a little earlier—so they don't have the negotiating capacity when they're in front of a buyer or a broadcaster to fairly negotiate what they think is a living wage for their work. They are disadvantaged in that room when they are trying to sell their work.

● (1235)

Ms. Anju Dhillon: That was my next question.

Between fiction filmmakers and documentary filmmakers, is there a difference in how copyright law affects both of these film genres? Is one more unfairly treated than the other?

The Chair: You have about 30 seconds.

Mr. Mathieu Dagonas: My quick answer is yes. I think that because we exist as a minority within a very complex media landscape, there are unintended consequences with changes of policy that affect the documentary community in a way that's probably disproportionate.

I think there are many changes and many conversations that are happening that are really tailored around a feature film. Those are great works—and believe me, I watch plenty of them—but I think the point is that documentary filmmakers are a minority within that area, so we're trying to get our voice heard in some of those conversations. To your point, I think sometimes it's not necessarily built into changes, whether it's a broadcaster or whether it's policy changes.

The Chair: Thank you.

We will now go to Mr. Shields, who is sharing his time with Mr. Yurdiga, please.

Mr. Martin Shields: Thank you, Madam Chair.

Thank you to the witnesses.

Those are three very different messages we've had today from three witnesses.

Mr. Schiller, yours is probably the most different one we've heard while we've been doing this process.

I'm an old guy. I can remember when people close to the border would turn their antennas to try to find an American channel. That's the one on the roof, for those younger people who don't remember those. Then we transferred to satellite dishes to cable to now, where people just get it whichever way they want by live streaming.

When you were talking about this, I need you to go back and tell me again, when you're talking border, what you are...because "border", I think, is an irrelevant term now.

Mr. Francis Schiller: I think "border" is very relevant, in that if you're a Windsor resident and you work in Detroit and you're dependent on local news in the morning for weather, traffic and sports going in to work and there's no local television news in Windsor, then obviously it's relevant. Those communities are directly impacted and identify with that shared community of interest that's being televised. It's the idea that people still require local news, which requires local journalists and local news offerings to be relevant and connect with the audiences. Local news remains very popular in trust surveys. It's well respected. It's held in higher regard than national news in the U.S.

It's also important to acknowledge that it's the local television stations in small and medium-sized markets that are the dominant generators and creators of local news online, so the idea that people are going to the Internet for alternative sources of local news doesn't reconcile with the fact that the providers, generators and creators of the local news are still local journalists and broadcasters who are on the scene locally.

Mr. Martin Shields: That clarifies it a bit. Even to go back to my old cable bundling that you referred to, I get Syracuse, Detroit, Seattle, Spokane. That's not my morning traffic stuff, but those are the ones on my cable provider bundle, and they're nowhere near me.

Mr. Francis Schiller: Exactly. It varies across the country. Boston has a very special connection with the Maritimes—Halifax, obviously. You're hard pressed to go anywhere in the country and not find Detroit television stations on the cable package. Minneapolis is relevant to northern Ontario and Winnipeg. Spokane has connections with the Prairies, with Alberta. Obviously, Seattle has a following in Vancouver.

I think the key is that those decisions of your cable package are not being driven by you, but rather by our current broadcasting distribution laws and regulations that provide incentives for our distributors to package as much as they can and provide that to you. A number of mechanisms are behind that, but I think the crux of it is that the local stations are not involved in this process, and the distributors and the Government of Canada policy are contributing to what you may refer to as oversupply of the U.S. programming services.

Mr. Martin Shields: When you refer to the decision made about who's in those cable bundles, in a sense you're saying that the decision is totally made in Canada. Do the three major networks out of the U.S. have no influence, no input into that?

Mr. Francis Schiller: I can give you an example. KSTP in Minneapolis, an ABC affiliate, became aware that it was being distributed by Canadian distributors in Canada because it started receiving complaints from northern Ontario that its closed captioning was not working properly. At KSTP, there is a very regulated process whereby complaints are followed. KSTP looked into it. They were having no problems with their transmitters. The high definition was working and there was no issue with their closed captioning. Somehow at KSTP, of interest, the signals from Minneapolis are not available off-air in Canada, so they don't spill over the border. Somehow the distributor in question was obtaining these signals, compressing them, and in that process, content was being stripped out of them. The challenge for that particular station owner was that when they became aware of it, there was no place for them to go to have that issue addressed. The distributor didn't want to acknowledge that they were distributing the station. When the distributor went before the CRTC to add KSTP to the list for authorized retransmission, there was no requirement by the CRTC to ensure that the distributor consulted the owner or even that the owner agreed to it.

Just as an aside, when that station owner became aware of this and the challenges, they said they would prefer not to be distributed in Canada. They went to the CRTC, and the CRTC declined their request to be removed from the authorized list, stating it was in Canada's cultural interest to keep them.

The CRTC adds stations to this list on an ongoing basis. In that process, other over-the-air stations from other nations receive better treatment from the CRTC than the U.S. border stations. For example, in 2015 a Ukrainian television station was added to the list, but for that to happen, that television station owner had to furnish a letter confirming that they not only had the rights for the programs that are being retransmitted in Canada, but they also agreed to that retransmission, and that's what's being denied in the Canadian practices.

Mr. Martin Shields: In Europe, where countries are close together, is there anything there that would—

● (1240)

Mr. Francis Schiller: The Canadian retransmission regime is a hybrid, and it grew out of that subsidy model. Initially it was to provide cable subscribers with content outside the border. It goes back to a policy in the early 1970s, called the equalization of viewing policy, that we had at the time. It just meant that people across Canada were entitled to the Windsor television package, no matter where they lived. Once satellite came in, they expanded the list and the number of sets of American services that were available. When high definition came in, the sets of American services were expanded; they also brought in a whole other group with satellite.

You'll notice sometimes that you probably have stations from Los Angeles, Atlanta, or New York City that have no connection. Again, this was all driven by the copyright system in Canada, which is like an all-you-can-eat buffet for our distributors. It's not à la carte. You pay the same fee whether you transmit one or multiple sets. As my colleague made reference to, there are preponderance rules, so there's an incentive to include more American channels because that allows them to package their Canadian offerings around those American stations.

Mr. Martin Shields: It's in bundles, yes. Thank you.

Mr. Francis Schiller: Thank you.

The Chair: We are now out of time.

[*Translation*]

We will hear from Mr. Nantel, who has seven minutes.

Mr. Pierre Nantel: Thank you, Madam Chair.

I want to thank all three of you for joining us this morning. This is very important.

I hope I will have enough time to talk to you, Mr. Schiller. I am fascinated by the situation of border radio stations. There are many decisions and situations taken for granted, and that continues. It is completely ridiculous and surprising.

Mr. Dagonas, you referred earlier to the report issued by the CRTC. Like me, you saw a lot of lucid things in that report. Were you disappointed that the government's response was to delay this indefinitely, or at least until January 2020?

Mr. Mathieu Dagonas: I will answer you in English.

Mr. Pierre Nantel: Okay.

[*English*]

Mr. Mathieu Dagonas: No. We trust government to do the right thing in this circumstance, and sometimes difficult decisions take time to evaluate. We trust that through consultations and with the recommendations of the CRTC, we will reach decisions that are good for documentary filmmakers, although obviously there are a number of other stakeholders that have an interest in seeing the Copyright Act service them. I think these decisions have to take time.

I look forward to the decision, yes, but from my perspective, we want to be part of the conversation. I think it's responsible to at least have a conversation that can proceed over time, because as I said, we're a minority and we think that often decisions are made too quickly. Sometimes that disproportionately affects smaller communities.

● (1245)

Mr. Pierre Nantel: The smaller communities here are documentary filmmakers. I understand.

[*Translation*]

Of course, that's true. You are a minority within a minority.

Mr. Mathieu Dagonas: Yes.

Mr. Pierre Nantel: I can tell you that there are many players. A movement has begun, and we feel it among rights holders or creators. In any case, it can be said that there is tension between creators, rights holders and the system that has represented them so far. The situation is problematic.

You have always been in this position because documentary makers have never had a large share of the cake or visibility. The established system, which was built with our quotas, with regulations on Canadian content, with the Music Artist Performance Lyrics, or MAPL, and so on, has been at the industry's service in a large sense, but not as much at the service of more specialized players like yourself.

Ms. Jones, all the committee members have understood the four issues related to the value gap. People from the music industry have done a good job of expressing those four main points.

People from Google told us that they gave 55% of advertising revenues from YouTube to rights holders. Does that reassure you?

[*English*]

Ms. Catherine Jones: Certainly it's reassuring. I actually wasn't in the room when he was speaking, so I don't know the context of it, but anybody who compensates artists and creators for commercial use of music is welcome.

[*Translation*]

Mr. Pierre Nantel: People who have appeared told us about the same four points related to the value gap.

[*English*]

I remember a fiddler from Nova Scotia came here—Miranda. She made it quite clear that these new rules were not to her advantage as a middle-class artist. Of course there is Justin Bieber, but there is no space for her.

Fifty-five per cent would be great, but does it show up to you? Do you see the numbers for your members?

Ms. Catherine Jones: At Connect we don't license services like YouTube, Facebook or any of the other Google properties, so I can't speak to what numbers they represent exactly.

With respect to what Miranda is talking about, she's looking for fair and equitable compensation when her music is used in film and television, which she's not receiving, but a composer is.

[*Translation*]

Mr. Pierre Nantel: Mr. Schiller, I am pretty surprised that American border stations' view fits within the context of the study on copyright.

I honestly did not expect that. I was somewhat aware of this type of endorsed pirating. I thought it was an issue that would rather be covered in the Canadian Broadcasting Act. Explain to me what the issue entails? Why is it being covered in the study on copyright?

To simplify things, let's say that I have some sort of a cable package and I am offered something. I have a subscription to ABC, CBS and whatever other U.S. network.

I grew up watching WPTZ Plattsburgh. I remember Channel 8 very well. That came from the cable company. So we got the American signal from border stations.

If I have understood what you are telling me, the signal is transmitted to us under the pretext that it was available locally with an antenna. So we could pick up that signal for TVA, Radio-Canada, CBC and, in the Montreal region, CTV. That is what made the picking up of the signal legitimate.

How is this situation related to copyright?

[*English*]

The Chair: You have one minute.

[*Translation*]

Mr. Francis Schiller: If that's okay with you, I will answer in English.

● (1250)

[*English*]

The border stations themselves are program rights owners, so they own the program rights—

Mr. Pierre Nantel: Yes, of course.

Mr. Francis Schiller: —for everything they produce, and obviously local television is a creative industry. They employ people in the creative—

Mr. Pierre Nantel: Obviously.

Mr. Francis Schiller: From our perspective, the Broadcasting Act reports through the Minister of Canadian Heritage, so we think that your study is very important and timely, and the model we're advocating, which is a retransmission consent model, would make new revenues available for Canadian broadcasters as well—

Mr. Pierre Nantel: Yes.

Mr. Francis Schiller: —and it will help bolster the sagging local state of television and offset some of the losses by creating these new commercial revenues.

Mr. Pierre Nantel: Can I ask you to submit to us a document that's going to explain this and refer to whatever you think is appropriate, because—

Mr. Francis Schiller: Yes, we can.

Mr. Pierre Nantel: —we all know that

[*Translation*]

General interest television, so Radio-Canada, CTV and TVA,

[*English*]

do not get the subscription fee through the subscription to cable, as specialty channels would. Obviously, you get nothing.

Mr. Francis Schiller: I see your point. That's exactly right.

The Chair: We'll have to cut it there, but if you can submit those materials, please, that would be really helpful.

Mr. Francis Schiller: It would be my pleasure. Thank you.

The Chair: We will now go to Mr. Hogg.

Mr. Gordie Hogg: Thank you.

Ms. Jones, you made reference to three recommendations that you felt we should be looking at. Can you articulate those a little more finely and define them with more specificity as to how you would see them operationalized?

Ms. Catherine Jones: Absolutely. The $1.25-million radio exemption, which we've heard about before, would compensate artists for public performance on all revenues that are generated by the radio stations, and that would be an immediate change, an immediate increase in revenue.

Mr. Gordie Hogg: What would be the impact of that?

Ms. Catherine Jones: It's going to put more money in the pockets of the artists and the creators. It's balancing the scale.

The private copying reform would also help compensate those artists, again, and creators whose music is being copied onto technological devices like phones and the like, and on the Internet. The old regime put a tax on the devices themselves, and now we're looking at creating a fund so that it doesn't affect the consumer whatsoever.

Mr. Gordie Hogg: What is the principle behind the $1.25 million? You're suggesting it's going to give more, but how do you rationalize the equity within that? Why is it $1.25 million?

Ms. Catherine Jones: It's an exemption that's been in place since neighbouring rights were brought in in 1997, and it was put in place to help the mom-and-pop and Internet radio stations, which don't really exist anymore, so there's no need to have that exemption.

Mr. Gordie Hogg: Are you exempting any of the mom-and-pop stations at all?

Ms. Catherine Jones: Certainly. As I mentioned in my opening remarks, the community radio stations and local campus radio, etc., are still protected.

Mr. Gordie Hogg: They're still exempt.

Ms. Catherine Jones: Yes. We're talking about commercial stations.

Mr. Gordie Hogg: Thank you.

Mr. Schiller, what happens about Canadian broadcasting into the States? How is that being impacted?

Mr. Francis Schiller: That's an excellent question. Really, it's not a comparative market. All Canadian TV subscribers receive over-the-air American services in their packages, whereas in the U.S., it's limited to approximately 40 to 45 designated market areas, so only an estimated 500,000 to a million U.S. TV customers receive Canadian services. Generally, it's one or two services. Most often, it's actually the CBC.

In the case of commercial Canadian stations, there aren't reciprocal rules. For example, the Super Bowl might have to have Canadian commercials in Canada, but the retransmission of the Super Bowl by the Canadian network back into the U.S. has Canadian commercials. The copyright remuneration for these stations in the U.S. is actually growing, whereas in Canada, it's going the other way.

The idea would be to take the retransmission consent model, supplementing a fair and equitable copyright regime, and make that available for Canadian broadcasters so that they could receive new commercial revenues as well.

Mr. Gordie Hogg: The same problem exists; it's just the quantum is different. Is that what you're saying?

Mr. Francis Schiller: Exactly. Yes, sir.

Mr. Gordie Hogg: In the case of British Columbia, there are some radio stations and broadcasters that have situated in Blaine, Washington, to broadcast into British Columbia. How would you deal with that?

Mr. Francis Schiller: I don't think I would be in a position to comment on radio as a—

Mr. Gordie Hogg: There's some television that is considering doing that as well.

Mr. Francis Schiller: I think the larger and more interesting question coming forward will be that as the Americans implement this next generation's new TV standard, it's important to appreciate that for the first time, broadcast transmissions will be available not only for fixed receivers, such as your television in your living room, but for mobile receivers, including things like your phone, your autonomous vehicle and things like that. It seamlessly integrates digital broadcasting with broadband, so we're going to see a whole new plethora of products and services being unrolled, but it's not clear how the Canadian side of the border is going to cope with that.

● (1255)

Mr. Gordie Hogg: In terms of the submissions you're making to us on how we should affect the broadcasting of American-produced television programs into Canada, you're saying exactly the same principles would apply on Canadian programs going into the States.

Mr. Francis Schiller: Reciprocity would be a step forward, because right now, the rules are not reciprocal.

Mr. Gordie Hogg: Are you speaking to American legislators about this as well?

Mr. Francis Schiller: There are ongoing discussions. At the moment, I think that the key focus is the fact that all Canadian TV package subscribers receive multiple U.S. services, whereas only a very small percentage of American stations do.

Mr. Gordie Hogg: I just have to make one quick comment to Mr. Dagonas.

The Chair: Okay.

Mr. Gordie Hogg: I thought your comment that you trust government to make good decisions was a very interesting and positive comment. You expect governments to take time to do that and they should take time—I'm being cut off, right?

The Chair: You're being cut—

Mr. Gordie Hogg: I was leading into a great question, too.

The Chair: Unfortunately, we really are out of time. You can even see that members for the next committee are coming in.

That brings this meeting to an end.

There is a scheduling subcommittee that's being held in another room, so we'll meet other folks there.

Thank you very much. This meeting is adjourned.

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